

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

James J. Pisanelli, Bar No. 4027
Debra L. Spinelli, Bar No. 9695
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101
Email: jjp@pisanellibice.com
Email: dls@pisanellibice.com

Jonathan D. Polkes (*pro hac vice forthcoming*)
Stephen A. Radin (*pro hac vice forthcoming*)
Caroline Hickey Zalka (*pro hac vice forthcoming*)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: 212.310.8000
Facsimile: 212.310.8007
Email: Jonathan.Polkes@weil.com
Email: Stephen.Radin@weil.com
Email: Caroline.Zalka@weil.com

Attorneys for Defendants Georges Antoun,
Kevin DeNuccio, Sarita James, Jay Leupp,
Merrick D. Okamoto, Said Ouissal, Simeon
Salzman, and Fred Thiel, and Nominal
Defendant Marathon Digital Holdings, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIMBERLY BERNARD, Derivatively on
Behalf of MARATHON DIGITAL
HOLDINGS, INC. (f/k/a MARATHON
PATENT GROUP, INC.),

Plaintiff,

v.

FRED THEIL, GEORGES ANTOUN,
KEVIN DENUCCIO, SARITA JAMES, JAY
LEUPP, SAID OUISSAL, MERRICK D.
OKAMOTO, and SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC.
(f/k/a MARATHON PATENT GROUP,
INC.),

Nominal Defendant.

CASE NO.: 2:22-cv-00305-JAD-VCF

**STIPULATION TO ACCEPT SERVICE
AND SET UNIFORM DATE FOR
MOTIONS TO DISMISS, INCLUDING
STIPULATION TO EXTEND TIME FOR
PARTY SERVED TO DATE**

(First Request)

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

Defendants Fred Thiel¹, Georges Antoun, Kevin DeNuccio, Sarita James, Jay Leupp, Said Ouissal, Merrick D. Okamoto, Simeon Salzman (collectively, “Defendants”), Nominal Defendant Marathon Digital Holdings, Inc. (“Marathon”), and Plaintiff Kimberly Bernard (“Plaintiff”), by and through their respective counsel, and subject to this Court’s approval, agree to (a) waive personal service of the summons and Complaint for Defendants; (b) set a uniform schedule for Defendants and Nominal Defendant Marathon to respond to the Complaint (ECF No. 1); and (c) extend time for Nominal Defendant Marathon, which has been served, to respond to the Complaint until the date Defendants will respond to the Complaint. This is the first request for an extension of time in this action.

1. On February 18, 2022, Plaintiff filed her Complaint;

2. On March 4, 2022, Plaintiff served the summons and Complaint on Nominal Defendant Marathon, and Nominal Defendant Marathon’s response to the Complaint is currently due on March 25, 2022;

3. To date, the summons and Complaint have not been served on any Defendant, but Counsel for Defendants has agreed to accept service on behalf of Defendants and Plaintiff’s counsel has agreed that Defendants and Nominal Defendant Marathon will respond to the Complaint on a uniform schedule on April 4, 2022;

4. Good cause therefore exists to extend Nominal Defendant Marathon’s time to respond to the Complaint from March 25, 2022 to April 4, 2022, so that all responses to the Complaint will be filed on the same date.

5. The parties stipulate and agree that:

a. The undersigned counsel for Defendants are authorized to and hereby waive service of the summons and Complaint on behalf of Defendants; provided, however, that waiver of service and entry into this stipulation shall not waive or prejudice any, and Defendants expressly preserve all, rights, claims, and defenses, including, but not limited to, all defenses relating to jurisdiction and

¹ Improperly captioned as “Fred Theil.”

venue, except a defense as to the sufficiency of service of the summons and Complaint and the form of the summons;

b. Defendants and Nominal Defendant Marathon will file their responses to the Complaint on or before April 4, 2022.

6. This Stipulation is made in good faith, with good cause, and not for purposes of unduly delaying discovery or trial.

///

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

Dated this 25th day of March 2022.

PISANELLI BICE PLLC

By: /s/ Debra L. Spinelli
James J. Pisanelli, Bar No. 4027
Debra L. Spinelli, Bar No. 9695
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Jonathan D. Polkes (*pro hac vice forthcoming*)
Stephen A. Radin (*pro hac vice forthcoming*)
Caroline Hickey Zalka (*pro hac vice forthcoming*)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153

Attorneys for Defendants Georges Antoun, Kevin
DeNuccio, Sarita James, Jay Leupp, Merrick D.
Okamoto, Said Ouissal, Simeon Salzman, and Fred
Thiel, and Nominal Defendant Marathon Digital
Holdings, Inc.

Dated this 25th day of March 2022.

MATTHEW L. SHARP, LTD.

By: (approved but not signed)²
Matthew L. Sharp, Bar No. 4746
432 Ridge Street
Reno, Nevada 89501
Telephone: 775.324.1500
Email: matt@mattsharplaw.com

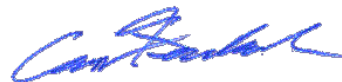
Gregory M. Egleston
GAINEY McKENNA & EGLESTON
501 Fifth Avenue, 19th Floor
New York, New York 10017
Telephone: 212.983.1300
Email: gegleston@gme-law.com

Attorneys for Plaintiff Kimberly Bernard

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, based on the parties' stipulation above, Defendants and Nominal Defendant Marathon shall file their responses to the Complaint on or before April 4, 2022.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE
4-6-2022

DATED: _____
CASE NO. 2:22-cv-00305-VCF

² Plaintiff's counsel Thomas J. McKenna, of Gainey McKenna & Egleston, approved this stipulation as reflected in his March 25, 2022, 11:08 am email, attached hereto as Exhibit A. However, Matthew Sharp, Plaintiff's Nevada counsel is in trial today in the Eighth Judicial District Court, and his office was unable to connect with him before the end of the business day. (*Id.*) Because of the deadline extended via this stipulation, and the fact that the ECF shuts down at 5:00 pm, the parties submit this stipulation with Plaintiff's approval but no e-signature.

EXHIBIT A

Cinda C. Towne

From: Cristin Sharp <cristin@mattsharplaw.com>
Sent: Friday, March 25, 2022 3:27 PM
To: Debra Spinelli
Cc: 'T.J. McKenna'; 'Matthew L. Sharp'; 'Radin, Stephen'; 'Zalka, Caroline'; 'Sytsma, Elizabeth'; 'Greg Egleston'; 'Ruffi, Dylan'; Cinda C. Towne
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)(Marathon)

CAUTION: This message is from an EXTERNAL SENDER.

Debra,

My apologies, but Matt did not respond to either my email or my text. I have been connected to the court's video conference system watching his trial and he went into a conference room during the break to prepare for his cross of the opposing counsel's economist expert witness. I have no idea whether an authority to use an e-signature after the fact would be acceptable to you, but as Mr. Sharp is a solo-practitioner, I have no other attorney to provide authorization. I'm sorry the circumstances are aligning this way the weekend the CM/ECF system is going down for an upgrade.

I'm sure Matt will respond at some point, but it will likely be after 5 pm. I cannot provide what you need as I am not a lawyer, but I honestly believe he would have no issues with it due to our co-counsel's consent, for whatever that's worth.

Cristin B. Sharp
Legal Assistant
Matthew L. Sharp, Ltd.
432 Ridge Street
Reno, NV 89501
(775) 324-1500
(775) 284-0675 – facsimile
cristin@mattsharplaw.com
www.mattsharplaw.com

From: Debra Spinelli <dls@pisanellibice.com>
Sent: Friday, March 25, 2022 2:33 PM
To: Cristin Sharp <cristin@mattsharplaw.com>
Cc: T.J. McKenna <TJMcKenna@gme-law.com>; Matthew L. Sharp <matt@mattsharplaw.com>; Radin, Stephen <stephen.radin@weil.com>; Zalka, Caroline <caroline.zalka@weil.com>; Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; Greg Egleston <egleston@gme-law.com>; Ruffi, Dylan <Dylan.Ruffi@weil.com>; Cinda C. Towne <cct@pisanellibice.com>
Subject: Re: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)(Marathon)

I am just checking in on authority to e-sign. ECF shuts down at 5:00 pm today. If I missed an email/authorization, my apologies.

Thank you,
Debbie

On Mar 25, 2022, at 11:46 AM, Cristin Sharp <cristin@mattsharplaw.com> wrote:

CAUTION: This message is from an EXTERNAL SENDER.

I'll see if I can get a hold of Matt. He's in the middle of a trial down in Las Vegas. They will be breaking for the lunch hour soon.

Cristin B. Sharp
Legal Assistant
Matthew L. Sharp, Ltd.
432 Ridge Street
Reno, NV 89501
(775) 324-1500
(775) 284-0675 – facsimile
cristin@mattsharplaw.com
www.mattsharplaw.com

From: T.J. McKenna <TJMcKenna@gme-law.com>
Sent: Friday, March 25, 2022 11:08 AM
To: Matthew L. Sharp (matt@mattsharplaw.com) <matt@mattsharplaw.com>
Cc: Radin, Stephen <stephen.radin@weil.com>; Matthew L. Sharp (matt@mattsharplaw.com) <matt@mattsharplaw.com>; Zalka, Caroline <caroline.zalka@weil.com>; Debra Spinelli <dls@pisanellibice.com>; Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; Greg Egleston <egleston@gme-law.com>; Ruffi, Dylan <Dylan.Ruffi@weil.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)(Marathon)

Matt:

This revised stipulation sent to us by defense counsel on Wed., March 23 is acceptable to us. Defendants want to file this today so they will need your permission to sign your name. Please give it to them. Thanks.

TJ

*Thomas J. McKenna Gainey McKenna & Egleston 501 Fifth Avenue, 19th Floor, New York, NY 10017
Tel: 212-983-1300 / Fax: 212-983-0383 / Cell: 914-552-2786*

From: Ruffi, Dylan <Dylan.Ruffi@weil.com>
Sent: Wednesday, March 23, 2022 10:53 AM
To: T.J. McKenna <TJMcKenna@gme-law.com>
Cc: Radin, Stephen <stephen.radin@weil.com>; Zalka, Caroline <caroline.zalka@weil.com>; Debra Spinelli <dls@pisanellibice.com>; Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; matt@mattsharplaw.com; Greg Egleston <egleston@gme-law.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)(Marathon)

Thank you, TJ. A revised stipulation is attached with redline.

Please let us know if we are authorized to sign electronically for Matt and we will get this on file today.

Best,
Dylan



Dylan L. Ruffi

Weil, Gotshal & Manges LLP

767 Fifth Avenue
New York, NY 10153
dylan.ruffi@weil.com
+1 212 310 8811 Direct
+1 212 310 8007 Fax

From: T.J. McKenna <TJMcKenna@gme-law.com>
Sent: Wednesday, March 23, 2022 8:03 AM
To: Ruffi, Dylan <Dylan.Ruffi@weil.com>
Cc: Radin, Stephen <stephen.radin@weil.com>; Zalka, Caroline <caroline.zalka@weil.com>; Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; matt@mattsharplaw.com; Greg Egleston <egleston@gme-law.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)(Marathon)

Dylan:
Greg is on vacation overseas. We can agree to give you a two week extension of your March 25 deadline and then sort out a schedule when Greg is back.
TJ

Thomas J. McKenna Gainey McKenna & Egleston 501 Fifth Avenue, 19th Floor, New York, NY 10017 Tel: 212-983-1300 / Fax: 212-983-0383

From: Ruffi, Dylan <Dylan.Ruffi@weil.com>
Sent: Monday, March 21, 2022 5:48 PM
To: Greg Egleston <egleston@gme-law.com>
Cc: Radin, Stephen <stephen.radin@weil.com>; Zalka, Caroline <caroline.zalka@weil.com>; Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; matt@mattsharplaw.com; T.J. McKenna <TJMcKenna@gme-law.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)

Good afternoon Greg,

Further to the below, attached is a draft stipulation.

Please let us know if we have your consent to get this filed or if you have any comments.

Best,
Dylan



Dylan L. Ruffi

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
dylan.ruffi@weil.com
+1 212 310 8811 Direct
+1 212 310 8007 Fax

From: Greg Egleston <egleston@gme-law.com>
Sent: Friday, March 11, 2022 2:01 PM

To: Ruffi, Dylan <Dylan.Ruffi@weil.com>; Zalka, Caroline <caroline.zalka@weil.com>
Cc: Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; matt@mattsharplaw.com; T.J. McKenna <TJMcKenna@gme-law.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)

Dylan: Yes. How about 2pm? If that is good, please circulate a call in number. If not, please let me know what time and I will try to land on it. Best, Greg

Gregory M. Egleston, Esq.
Gainey McKenna & Egleston
501 Fifth Avenue, 19th Floor
New York, New York 10017
Tel: 212-983-1300
Fax: 212-983-0383
www.gme-law.com

This transmittal may be a confidential attorney-client communication or may otherwise be privileged or confidential. If it is not clear that you are the intended recipient, you are hereby notified that you have received this transmittal in error; any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you suspect that you have received this communication in error, please notify Gainey McKenna & Egleston immediately by telephone at 212-983-1300, or e-mail gegleston@gme-law.com and immediately delete this message and all its attachments.

From: Ruffi, Dylan <Dylan.Ruffi@weil.com>
Sent: Friday, March 11, 2022 1:53 PM
To: Greg Egleston <egleston@gme-law.com>; Zalka, Caroline <caroline.zalka@weil.com>
Cc: Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; matt@mattsharplaw.com; T.J. McKenna <TJMcKenna@gme-law.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)

Good afternoon Greg,

Are you available Monday afternoon (3/14) for a call? If so, let us know your availability and we will circulate an invite.

Best,
Dylan



Dylan L. Ruffi

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
dylan.ruffi@weil.com
+1 212 310 8811 Direct
+1 212 310 8007 Fax

From: Greg Egleston <egleston@gme-law.com>
Sent: Wednesday, March 9, 2022 3:40 PM

To: Zalka, Caroline <caroline.zalka@weil.com>
Cc: Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; Ruffi, Dylan <Dylan.Ruffi@weil.com>;
matt@mattsharplaw.com; T.J. McKenna <TJMcKenna@gme-law.com>
Subject: RE: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)

Caroline: Thanks for reaching out. We will hold off on serving the individual defendants. Let's schedule a call to discuss when you are available. Regards, greg

Gregory M. Egleston, Esq.
Gainey McKenna & Egleston
501 Fifth Avenue, 19th Floor
New York, New York 10017
Tel: 212-983-1300
Fax: 212-983-0383
www.gme-law.com

This transmittal may be a confidential attorney-client communication or may otherwise be privileged or confidential. If it is not clear that you are the intended recipient, you are hereby notified that you have received this transmittal in error; any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you suspect that you have received this communication in error, please notify Gainey McKenna & Egleston immediately by telephone at 212-983-1300, or e-mail gegleston@gme-law.com and immediately delete this message and all its attachments.

From: Zalka, Caroline <caroline.zalka@weil.com>
Sent: Wednesday, March 9, 2022 11:15 AM
To: Greg Egleston <egleston@gme-law.com>; matt@mattsharplaw.com
Cc: Sytsma, Elizabeth <Elizabeth.Sytsma@weil.com>; Ruffi, Dylan <Dylan.Ruffi@weil.com>
Subject: Bernard v. Thiel et al., 21-cv-00305 (D. Nev.)

Gregory, Matthew,

Hope all is well. I am reaching out because we represent the defendants in *Bernard v. Thiel*, the derivative action you recently filed in the District of Nevada.

Just a couple of housekeeping items – we saw that you had served the company but not yet the individuals. We can accept service on behalf of the individual defendants (Fred Theil, Georges Antoun, Kevin DeNuccio, Sarita James, Jay Leupp, Said Ouissal, Merrick D. Okamoto, and Simeon Salzman) and can work out a mutually agreed upon date to effect service with you.

Best,

Caroline



Caroline Hickey Zalka

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

caroline.zalka@weil.com
+1 212 310 8527 Direct
+1 212 310 8007 Fax

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by email, postmaster@weil.com, and destroy the original message. Thank you.

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by email, postmaster@weil.com, and destroy the original message. Thank you.

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by email, postmaster@weil.com, and destroy the original message. Thank you.

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by email, postmaster@weil.com, and destroy the original message. Thank you.